

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION CORPORATION,

Plaintiff-Applicant,

Adv. Pro. No. 08-01789 (CGM)

v.

BERNARD L. MADOFF INVESTMENT SECURITIES LLC,

Defendant,

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor,

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Adv. Pro. No. 12-01680 (CGM)

Plaintiff,

v.

INTESA SANPAOLO SPA (AS SUCCESSOR IN
INTEREST TO BANCA INTESA SPA), EURIZON
CAPITAL SGR SPA (AS SUCCESSOR IN INTEREST TO
EURIZON INVESTIMENTI SGR SPA, F/K/A NEXTRA
INVESTMENT MANAGEMENT SGR SPA, AND
EURIZON ALTERNATIVE INVESTMENTS SGR SPA,
FKA NEXTRA ALTERNATIVE INVESTMENTS SGR
SPA), EURIZON LOW VOLATILITY F/K/A NEXTRA
LOW VOLATILITY, EURIZON LOW VOLATILITY II
F/K/A NEXTRA LOW VOLATILITY II, EURIZON LOW
VOLATILITY PB F/K/A NEXTRA LOW VOLATILITY
PB, EURIZON MEDIUM VOLATILITY F/K/A NEXTRA
MEDIUM VOLATILITY, EURIZON MEDIUM
VOLATILITY II F/K/A NEXTRA MEDIUM VOLATILITY
II, EURIZON TOTAL RETURN F/K/A NEXTRA TOTAL
RETURN,

Defendants,

**STIPULATION AND ORDER
EXTENDING DEFENDANTS' TIME TO APPEAL**

This Stipulation and Order is entered into by and between Plaintiff Irving H. Picard, as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC and the Chapter 7 Estate of Bernard L. Madoff (the “**Trustee**”), and Defendants Eurizon Capital SGR SpA (“**Eurizon Capital**”), Eurizon Low Volatility (“**Low Volatility**”), and Eurizon Medium Volatility (“**Medium Volatility**”) (the “**Eurizon Funds**”) (together with Eurizon Capital, the “**Eurizon Defendants**”),¹ through their respective undersigned counsel.

RECITALS

- A. On April 15, 2022, the Eurizon Defendants moved to dismiss the complaint in this Adversary Proceeding, No. 12-01680 (CGM) [ECF No. 95] (the “**Motion**”). The Motion was fully briefed as of July 14, 2022.
- B. On August 25, 2022, the parties agreed to waive oral argument and rely on their papers submitted in support of and in opposition to the Motion [ECF No. 102].
- C. On September 22, 2022, this Court issued its Amended Memorandum Decision Denying Defendants’ Motion to Dismiss [ECF No. 107].
- D. On October 7, 2022, this Court entered its Order Denying the Eurizon Defendants’ Motion to Dismiss the Complaint [ECF No. 108] (the “**October 7, 2022 Order**”).
- E. Under Bankruptcy Rule 8002(a)(1), the last day on which the Eurizon Defendants may file a notice of appeal from the October 7, 2022 Order is 14 days after entry of that order, i.e., on October 21, 2022.

¹ Defendants Intesa Sanpaolo SpA, Eurizon Low Volatility II, Eurizon Low Volatility PB, Eurizon Medium Volatility II, and Eurizon Total Return were dismissed by stipulation and order entered on March 29, 2022 [ECF No. 93].

F. The Eurizon Defendants seek an extension of time to file such a notice of appeal in order to consider whether to appeal and on what grounds, and if so, to prepare the required papers for a motion for leave to appeal.

G. Under Bankruptcy Rule 8002(d)(1), the Bankruptcy Court may extend the time to file a notice of appeal upon a party's motion that is filed within the time prescribed by Rule 8002, *i.e.*, by October 21, 2022. Bankruptcy Rule 8002(d)(3) permits such an extension to 21 days after the time prescribed by Bankruptcy Rule 8002(a)(1).

H. No previous motion for an extension of time to file such notice of appeal has been made.

I. The Trustee consents to the Eurizon Defendants' request to extend their time to appeal to November 10, 2022, and further requests an additional 21 days to file his response to the Eurizon Defendants' motion for leave to appeal. The Eurizon Defendants consent to that request.

IT IS THEREFORE STIPULATED THAT:

1. For purposes of Bankruptcy Rule 8002(d), this Stipulation and Order shall be deemed a motion by the Eurizon Defendants for an extension of time for filing (a) a notice of appeal from the October 7, 2022 Order and (b) a motion for leave to appeal in accordance with Bankruptcy Rules 8002(a)(1) and 8004(a) (collectively, the "**Required Filings**"), through and including November 10, 2022 (the "**Extended Filing Deadline**").

2. The Trustee consents to the Eurizon Defendants' motion, and this Court hereby grants it pursuant to Bankruptcy Rule 8004(d).

3. Accordingly, if the Eurizon Defendants wish to appeal from the October 7, 2022 Order, the Eurizon Defendants shall make the Required Filings by the Extended Filing Deadline, and if the Trustee wishes to respond, the Trustee shall have until December 15, 2022 to file a

response in opposition to the Eurizon Defendants' motion for leave to appeal. If the Eurizon Defendants wish to file a reply, they shall file such reply by January 5, 2023.

Dated: New York, New York
October 20, 2022

/s/ Matthew B. Lunn

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**Dated: October 21, 2022
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**